

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

AMELIA WITHROW,

Plaintiff,

v.

**LAMB WESTON, INC., ELOY
GERRARDO, and MICHAEL COOPER,**

Defendants.

Case No. 2:20-cv-00913-HL

**ORDER ADOPTING
SUPPLEMENTAL F&R**

Ashley A. Marton and Rebecca Cambreleng, Cambreleng & Marton LLC, 3518 S Corbett Ave., First Floor, Portland, OR 97239. Attorneys for Plaintiff.

Dayna C. Carter and Bruno J. Jagelski, Yturri Rose, LLP, 89 SW Third Ave., P.O. Box “S,” Ontario, OR 97914. Attorneys for Defendants.

IMMERGUT, District Judge.

On July 12, 2023, Magistrate Judge Andrew D. Hallman issued his Supplemental Findings and Recommendation (“Supplemental F&R”), ECF 58, recommending that 1) Defendants’ Motion for Summary Judgment, ECF 21, be denied as to Plaintiff’s fourth and fifth claims for federal and state retaliation against Defendant Lamb Weston, Inc. insofar as Plaintiff alleges that her termination was in retaliation for her October 8, 2018 grievance and 2) Defendants’ Motion for Summary Judgment be granted as to Plaintiff’s fifth claim for state

retaliation against Defendant Eloy Gerrardo. Plaintiff filed objections on July 19, 2023, ECF 60, and Defendants Lamb Weston, Inc. and Eloy Gerrardo filed a response on August 1, 2023, ECF 61. This Court has reviewed de novo the portions of the Supplemental F&R to which Plaintiff objected. This Court accepts Judge Hallman's conclusions and ADOPTS Judge Hallman's Supplemental F&R in full.

STANDARDS

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, sua sponte" whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

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CONCLUSION

This Court has carefully reviewed de novo the portions of Judge Hallman's Supplemental F&R to which Plaintiff objected. Judge Hallman's Supplemental F&R, ECF 58, is adopted in full. Defendants' Motion for Summary Judgment, ECF 21, is DENIED as to Plaintiff's fourth and fifth claims for federal and state retaliation against Defendant Lamb Weston, Inc. insofar as Plaintiff alleges that her termination was in retaliation for her October 8, 2018 grievance. Defendants' Motion for Summary Judgment is GRANTED as to Plaintiff's fifth claim for state retaliation against Defendant Eloy Gerrardo.

IT IS SO ORDERED.

DATED this 16th day of August, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge